



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

ELP
Docket No. 1778-00
30 November 2000

[REDACTED]

Dear Mr. [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 1 May 1989 for four years as an SN (E-3). You had prior Marine Corps Reserve service and had completed nearly five months of initial active duty for training. You extended your enlistment for an additional period of 24 months in exchange for training in the advanced electronics field and accelerated promotion to pay grade E-4. You were informed on 30 May 1989 that although you enlisted with a guaranteed assignment in the Cryptologic Technician (Maintenance) rating, you were not qualified for this guaranteed assignment because you did not meet minimum eligibility requirements for this rating. The qualifications you failed to meet are not shown in your record.

On 21 June 1989, you received nonjudicial punishment (NJP) for refusing to return to training. Punishment imposed was a reduction in rate to SR (E-1) and a forfeiture of \$323.10. Thereafter, you were formally counseled regarding your misconduct and warned that failure to take corrective action could result in

administrative separation.

On 13 June 1989 you were referred to the recruit evaluation unit by your company commander because you were depressed. You gave a history of drug/alcohol abuse since age 14, including blackouts, two DUI's, and jumping off a two story house while intoxicated. You characterized your performance in recruit training as meeting standards. You stated you were unhappy in the Navy since losing your "A" school guarantee due to a security clearance problem, and were depressed over the possibility of being away from your wife for an extended period of time. You were diagnosed with an adjustment disorder manifested by a mildly depressed mood.

On 10 July 1989 you were admitted to a naval hospital for adjustment reaction and depression. Your chief complaint was that you wanted out of the Navy and had made a superficial laceration to your wrist in an attempt to get discharged. You were diagnosed with a passive-aggressive personality disorder, alcohol dependence, and a self-inflicted laceration to left wrist. An entry level separation was recommended.

On 19 July 1989 you were convicted by summary court-martial of failure to obey a lawful order and were sentenced to confinement at hard labor for 21 days and a forfeiture of \$466.

On 15 August 1989 you were notified that an entry level separation was being considered by reason of failure to adapt to the military environment. You were advised of your procedural rights, declined to consult with legal counsel, and waived your rights. You did not object to the separation and discharge was directed. On 5 September 1989 you received an uncharacterized entry level separation by reason of entry level performance and conduct and were assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to individuals who are separated by reason of entry level performance and conduct. The Board noted your contentions that you have matured since you were discharged, earned an associate's degree in industrial electronics, and are no longer married. You point out that you received an RE-1A reenlistment from the Marine Corps Reserve prior to your enlistment in the Navy and received an RE-3 reenlistment code when discharged from the Army National Guard in July 1999. The Board noted that an individual rarely receives an NJP or is convicted by a summary court-martial in recruit training. The denial of your assignment in a highly classified rating was unfortunate but it did not justify your refusal to obey orders or to train. Since you were treated no

differently than others separated under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. The fact that you received more favorable

reenlistment codes from the Marine Corps Reserve and National Guard does not provide a valid basis for changing a reenlistment code that was correctly assigned by the Navy. The Board concluded that the reenlistment code was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The "member" copy of the DD Form 214 you provided with your application is returned for your retention.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure